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Late CHAPLAIN of *All-Souls* College in *Oxford*, &c.

MR. *Proast*, late Chaplain of *All-Souls College*, thinks himself unjustly treated, in being removed from the said College, for these several Reasons.

First, He says that a Warden of *All-Souls* cannot by his own Authority, even for a just Cause, displace a Chaplain.

Secondly, He urges, that if a Chaplain was removeable by the Warden alone for a just Cause, yet here in this Case, there was no good ground for his removal.

Thirdly, and lastly, He insists, that if a statutable Warden could remove a Chaplain, yet Mr. *Finch* could not challenge any right of expulsion, being no Statutable Warden.

To each of which Propoſitions, be pleaſed to conſider theſe following Anſwers.

Mr. *Proaſt*'s firſt Propoſition. That ſuppoſing Mr. *Finch* to be a Statutable Warden, yet he could not of his own Authority expel him, becauſe a Chaplain falls under the ſame Government as a Fellow of the College; and ſince a Fellow cannot be expelled by the Warden, without the Officers, therefore neither can a Chaplain.

In giving ſatisfaction to this Argument, I ſhall, firſt, by way of Introduction, ſhew what ſort of Officer a Chaplain of *All-Souls* is; and then, ſecondly, endeavour to prove, that he is amoveable *at the pleaſure of the Warden alone.*

Firſt, A Chaplain in *All-Souls College* hath a *Miniſterial*, and *Precarious* Office; he is provided by the Head, for the Service of the College; he is brought in by him alone, and is removeable by the ſame Authority. From his attendance on the Chappel he is often called *Miniſter Capellæ*; from the Incertainty of his Intereſt, he is as frequently named *Conductitius.* And in any College, whenever the Founder deſigned to veſt a laſting Eſtate in a Chaplain, he conſtituted him a Chaplain-Fellow, and by that Addition, gave him an higher and more durable Intereſt. This uſual and ordinary diſtinction would be altogether unneceſſary, if, without that extraordinary Proviſion, a Chaplain, *de Communi jure* was entituled to the Rights of a Fellow; This is the Notion of a Chaplain in general, and in *All-Souls College* in particular: There is no one Statute that hath any relation either to the Election or Government of a Chaplain, they being no where ſo much as mentioned, but in thoſe paſſages where it is proper to aſſign them their Commons, and their Places in the Chappel, and Hall; And it is obſervable, that above their bare Commons, they ſtand meerly upon the Courteſie of the Accountants

Accountants at the end of the year, for any further Gratuity. They take no Oath as Fellows do. They are Inrolled in no Regiſter as Fellows are. They are not ſubject to the ſame Penalties inflicted by the ſame Officers, and (which is a plain Argument of their dependance on the Warden) they have their Degrees given them in the Houſe, not as Fellows, by the Warden's conſent and Fellows, but by the Warden only; in a word, they are in all things, but that of waiting, upon the ſame bottom as Clerks, and Choriſters, who, ever ſince the Foundation of the College, have been turned out, as well as put in, by the ſole Authority of the Warden; all of them have had no other Admiſſion, than that of the Warden's putting their Names into the Buttery Book, whereas the Fellows are admitted by the Warden, in the preſence, and by the conſent of all the Society, and by ſuch Admiſſion entitled to a laſting Title to their Fellowſhips.

How precarious an Office a Chaplain is I ſhall not judge, but ſhall repeat in the words of the Learned Judges of the *King's-Bench*, when Mr. *Proaſt*'s Cauſe was before them.

They ſolemnly declared, That a Chaplain had ſo good and durable an intereſt in his Place, as a Cook, and Butler; and that he could not pretend to the ſame rights as a Fellow. Of this we have frequent Inſtances in the Univerſity; and One more particularly remarkable in *New College*, of which our Founder was formerly a Member; and from whoſe Statutes ours are chiefly compoſed; when Dr. *Woodward*, by his own Authority, expelled Nine Chaplains with one daſh of his Pen; One of them upon ſubmiſſion was reſtored, but the others appeal'd to the Viſitor, who, with a Reprimand, ſent them home, owning that he had no Cognizance of the matter, the Power lying in the Warden, and they never were reſtored. All which being premiſed, I am to ſhew,

That a Chaplain of *All-Souls* is amoveable at the pleaſure of the Warden alone.

In order to make this out, I ſhall ſuppoſe, and

and take it for granted, that the Chaplains for juſt cauſes are deprivable, ſince the Fellows, the principal Members, and the Warden, the Head of it, are ſo, as the Statutes to that purpoſe evidently evince. For it were abſurd and unreaſonable, that the inferiour Members ſhould have a more firm and laſting Intereſt, Eſtate, or Tenure in the Foundation, than the principal part, the Head of it; which being granted, I proceed.

Thoſe who in Societies have the ſole Power of putting in Members, have always Power likewiſe to turn them out, unleſs the local Statutes do otherwiſe direct, and limit that Authority. Now the Wardens of *All-Souls* College have always alone nominated and placed Chaplains in the ſaid College, neither do the Statutes appoint any other in Conjunction with him, who can either appoint or diſplace the ſaid Chaplains.

That the Warden alone puts them in, will not, it is preſumed, be denied by the Complainant himſelf; for if it is, he never was Chaplain, and conſequently not injured by his Removal, ſince he was put in by Dr. *Jeames*, without the concurrence either of the Officers or the majority of Fellows. Never ſince the Foundation of the College did either of theſe lay claim to the placing or diſplacing a Chaplain, as is moſt notoriouſly known beyond the poſſibility of a Denyal. So that it remains to be ſhewn,

That in Societies thoſe that have a power of putting in the Members, have likewiſe a power to put them out; and that the Statutes of *All-Souls*, in relation to the Chaplains do not otherwiſe ordain and appoint, and thence it will follow that the Chaplains being put in by the Wardens, and the Statutes not appointing any other perſon to turn them out, are to be deprived upon juſt occaſion, by the Warden; according to the known Rule of the Canon Law. *Cujus eſt Conſtituere ejus eſt Deſtituere.*

To give inſtances in other Societies of the Univerſal truth of this general Propoſition, is a Task proper for the Pen of a *Civilian.*

Civilian. It will be ſufficient for my purpoſe, to ſhew how it would follow in the Fellows themſelves, that they being Elected by the Warden and majority of the Fellows, were by them to be deprived, if there were not a particular Statute that gives ſuch power only to the Warden and Officers.

It is plain in the next place, that the Statutes of *All-Souls* College do not at all direct how, or by whom, the Chaplains are to be expelled. There is not a ſingle word about it in the whole body of them; ſo that it ſeems plain that the Chaplains muſt be put out by the Warden alone, who alone puts them in, or elſe (which is abſurd) that they are not at all liable to Expulſion. But come now to his 2*d.* Objection.

1. Mr. *Proaſt* ſays, the Warden is bound by the Statute *de Totali numero Sociorum, &c. Socios Scholares, Sacerdotes ac Miniſtros Secundum Regulas & Statuta inferius edita & in poſterum per nos & ſucceſſores noſtros edenda regere corrigere & gubernare,* &c.

2. Or as the Statute *de Officio Cuſtodis* has it, *Scholares Socios Miniſtros Altaris Capellanos,* viz. &c. *Juxta Ordinationes & Statuta dicti Collegii regere dirigere & gubernare & eôdem omnes & ſingulos juxta eorum demerita corrigere punire & caſtigare.*

3. And laſtly, That the Statute *Propter quas Cauſas,* &c. the only Statute that treats of the Expulſion of any under a Warden, gives no power to the Warden to expel any without the Officers.

1*ſt.* I anſwer, That the Statute *Propter quas Cauſas* ſpeaks only of the expelling of Scholars (*i. e.* Probationers) and Fellows, who are in that manner deprivable; nor of Chaplains, or any other inferiour Foundation Men, as Clerks, Choriſters, &c.

2*dly.* That the other two Statutes are to be interpreted *referenda Singula Singulis, i. e.* Thoſe under the Warden, concerning whom there are any Statutes, are to be governed, corrected, and puniſhed according to thoſe Statutes. Thoſe other, concerning whom there are no Statutes made, either by the

the Founder, or the ſucceeding Arch Bps. of *Canterbury* (and there are none about the expulſion of Chaplains) are left to be govern'd, corrected, and puniſhed by the Warden, *de jure Communi ad ipſius arbitrium & juxta bonam conſcientiam*; and ſo has it been and no otherwiſe ſince the Foundation of the College.

The Clerks and Choriſtors of the College, whoſe tenure is exactly the ſame with the Chaplains, as they have ever been put in ſolely by the Warden, ſo likewiſe have they been expelled. Inſtances of which done in the time of my Predeceſſor remain freſh in the memory of many in the College.

All thoſe Statutes that are objected againſt the Wardens Authority do here directly confirm it. For wherever the *ſole Power* of Government is lodged, there the right of *Expulſion* is conſequently veſted; and tho that power may be ſubject to reſtrictions, yet upon the failure of any ſubſequent limitations, it is left at large, and is to be taken in its full extent and latitude. Now the Government of Fellows, and of Chaplains, is equally placed in the Warden, and by conſequence the power of diſplacing both is in the ſame hands. The only difference is, that ſucceeding Statutes qualifie this Authority in one, and do not reſtrain it in the other, and therefore the Wardens coercive power is limited in reſpect of the Fellows, but remains entire and unreſtrained over Chaplains.

But after all, if it were requiſite (as I hope it appears otherwiſe) that the Concurrence of the Fellows ſhould be had to the expelling a Chaplain, yet it will appear, that I had even that too, at leaſt ex *poſt facto*, as may appear by an Act of the whole Society, Dated the 8*th*. of *Dec*. 88. which at leaſt imlpys the ratifying and Confirming my Act of expelling Mr. *Praſt* in a moſt ſolemn and publick Manner.

Now by what hath been ſaid it is hoped that it appears that the Warden has the Sole power of diſplacing a Chaplain, it is preſumed that he is not *Accountable to any* for it,

ſince

ſince by it he is not Guilty of the leaſt Breach of any part of the Statutes. But ſince there are ſo many who have taken upon them to Cenſure this Action, I am contented to have the Merits of the Cauſe truly expoſed, and ſhall therefore haſten to anſwer his Second general Propoſition.

2dly. He urges, that if a Chaplain was removeable by the Warden alone for a juſt Cauſe, yet here in this Caſe there was no good Ground for his Removal.

It will be juſtly granted, that there are many faults in Members of a Society deſerve Expulſion, which yet in freed diſengaged Perſons are hardly lyable to Cenſure. Firſt, of thoſe Cauſes there are none that merit a more ſevere Puniſhment, than thoſe which tend to the Diſturbance, or to the Diſgrace of the College. All Founders were careful as for the Peace, ſo for the *Reputation* of the Society, and ſufficiently knew that a College would ſo long continue in eſteem, as the Members of it were Advanced and Promoted. Hence it is, that in all Colleges the Members are under a Common tye of not diſgracing each other, and the neglect of this Rule in *Apleford's Caſe* was thought a ſufficient Ground for the Expulſion even of a Fellow: How far Mr. *Proaſt* hath upon other Grounds deſerved his Puniſhment is reſerved for *another Opportunity*; at preſent it will be ſufficient to ſhew, that by his own Confeſſion, the diſgrace that he put on his College, and upon the firſt Member of it, was ſufficient ground for his Removal.

The Matter of that was in ſhort this: About the middle of *March.* 88. Dr. *Lamphire* the Hiſtory Profeſſor lying ill, there were ſeveral of the Gentlemen of the Univerſity, who thinking Mr. *Dodwell* a proper Perſon to ſucceed him, went about to Colleges to form an Intereſt in his behalf. Inſomuch that long before the Dr. dyed, Mr. *Dodwell* was lookt upon as ſecure of the place.

The Indecency of making ſo Publick a Canvaſs for a place

not yet Void, made ſeveral Gentlemen think it a juſt Cauſe to oppoſe what had been ſo *Unſeaſonably* carried on. And many of Mr. *Proaſt*'s and my Betters *in all Reſpects*, lookt upon it as a Reflection upon *Oxford*, that a Gentleman of *another Univerſity* ſhould come among us, and take away, by much, the beſt Preferment in our Diſpoſal. It was therefore propoſed by them, that ſome body ſhould be put up in Oppoſition to Mr. *Dodwell*; and to be ſhort, they pitcht upon me. I entertain not a thought ſo vain as to deſire the World ſhould think I was ſet up upon the account of any *Great Abilities* I pretend to; but the true reaſon doubtleſs was, that they imagined I might have intereſt enough in the Univerſity to make ſome oppoſition to Mr. *Dodwell*'s *Election*; as thro' the favour of my Friends it did appear, ſince in near 300 Votes (with all imaginable foul play) there were but 6 different between us.

I am not ſo fooliſhly vain as to pretend to vye with Mr. *Dodwell*, in any part of Learning, but I hope on the other hand, that for endeavouring to put by a Stranger, I may be eaſily excuſed without Cenſure, ſince in the Judgment of ſo many and ſo great men (whoſe Character I preſume Mr. *P.* will not eaſily approach to) I was judged fit to oppoſe him in his Pretenſions.

In ſhort, when Dr. *Lamphire* was actually dead, I appeared, and acquainted our Society with it, deſiring the favour of their Aſſiſtance, I particularly ſpoke to Mr. *Proaſt*, who denyed me, However I thought I might reaſonably repreſent to him the indecency as well as the unkindneſs that would appear in any one of our own College that ſhould oppoſe himſelf againſt the Head of it, eſpecially a Chaplain who had ſo great a dependance on him. But he was pleaſed not only to oppoſe me in his own Perſon, but got two of the Fellows within our own Walls to joyn with him, and became a publick Solicitor againſt me; and not only ſo, but carry'd his kindneſs to his

his Friend, and his contempt of me a little further; he brought great numbers of Out-liers againſt me, ſo many, that it can be made out, that for Horſe-hire, and other Charges in the Election, he was reimburſed the better part of Twenty Pound. To conclude, the day of Election came, and I loſt it by three Votes he had made againſt me in our own College: I ſhall not inſiſt on the diſhonour of loſing the Preferment, nor upon the value of it, though it is, or ſhortly will be 200*l. per An.* And conſequently a young Man might have reapt great profit from it; and if ſo, the loſs muſt be conſiderable.

But let any indifferent Impartial Man judge, whether this Behaviour may be call'd Provocation: He is pleas'd indeed to ſay for himſelf, that he thought me unfit for the Place. Had any *Oxford* Man beſides ſtood, it is very poſſible that I had been of his mind: But let me be ever ſo meanly qualified, I preſume, without the imputation of arrogance, I might in this Caſe have expected, if not his Vote, yet a more decent reſpect; a more civil, if not a more kind behaviour; and I ſhould reaſonably have thought he might have been abſent, did it not appear by the whole drift of his Proceedings, that he was reſolved to ſhew the utmoſt of his Skill and Induſtry to diſappoint me.

He is pleaſed to affirm, that this was no Provocation. But I ſhall take upon me to ſhew him, that for one Member of the Society to oppoſe the Majority, even in the caſe of a Fellow, has formerly, in the Opinion of no leſs a Man than one of our Viſitors, Arch-Biſhop *Abbot*, been look'd upon as a high Offence, no leſs than the violation of an Oath; and if this be a great Fault in a Fellow, I may preſume I may infer that it is a Provocation in a Chaplain, not indeed a breach of an Oath, for he takes none at his Admiſſion. The Caſe was this; Before the *Cicle* for the Proctors was made; the Univerſity annually choſe Proctors out of any

College. The Fellows of *All-Souls* in the year 1617. appeared for a Gentleman of *Wadham*, but Mr. *Duppa* (afterwards Biſhop of *Winton*) diſſented from the reſt, which gave occaſion to our then Viſitor, to write this following Letter, and the Officers to proceed accordingly, as appears by our *Regiſter*.

AFter my hearty ~~hearty~~ commendations. After the Care I have of preſerving the reputation of your worthy College, whoſe welfare your Honourable Founder has in eſpecial manner recommended to my truſt, I have thought fit, upon ſome reports that are come to my ears, to write this my Letter unto you; whereby I am to adviſe you, that, as in all other Acts of your College, *ſo eſpecially in* that Publick Act of recommending one for the Proctorſhip, *you embrace* Unity and Concord, *and not make your ſelves a* Scorn *to the Univerſity, by any diſtractions touching that particular, whereof there is ſome report, and noiſe abroad: And therefore, as your Viſitor, do admoniſh you, that upon whom a major part of the Fellows that uſually have intereſt herein, ſhall concur for this Office,* no Man do publickly diſſent from this agreement. *Becauſe I take it to be againſt this Clauſe of your Oath, at your admiſſion to be Fellows.* Damna ſcandala vel prejudicia dicto Collegio nullatenus faciam aut quatenus in me fuerit fieri ſuſtinebo. *And peradventure, joyn'd with* willfulneſs, *and* contempt, *it may be a fault of a* higher nature. *Thus, without any requeſt unto you for any particular Perſon, or reſpect had to any other ends, than of maintaining your publick Credit in the Univerſity; and doubting not of your due reſpect herein, I leave you to the Almighty.* From *Lambeth* the 26 of *April.* 1617. *&c.*

And afterwards it appears by the Regiſter, that Mr. *Duppa* having violated that Clauſe of his Oath, *Damna Scandala*, &c. That

~~That he should be~~ lasts put out of Commons 3 Months, allowing unto each Month 28 days. &c

R. MOCKETT. Cust.

THO. DINGLY, {Dec. Jur.

The uſe I make of this Letter is this. Every Maſter of Art has as much a right of Voting for a *Proctorſhip*, as a *Profeſſorſhip* in the Univerſity: A *Fellow* of the College was judged by that *Viſitor himſelf* to have committed a great Offence, to have violated his *Oath*, by diſagreeing from the Majority, in favour of *another College*; he proves further, that joyn'd with willfulneſs and contempt, it may be a fault of a higher nature, by which we may not unreaſonably underſtand that it would merit expulſion. Here is a Chaplain, a Servant to the Houſe, in our Caſe, that not only gives his own Vote againſt the reſt of the College, but he ſeconds his Proceeding with *Contempt*, and *Willfulneſs*; inſomuch, that he not only perſwades two of the Fellows to joyn with him, but likewiſe prevail'd upon great numbers in other Colleges to oppoſe his own.

Now whether this deſerves Puniſhment, or Commendation; whether it be not Willfulneſs, and Contempt, whether it be Conſcience, or Provocation, is the queſtion to be ſatisfied.

Secondly, the ground upon which he juſtifies his Practice, is,

That every Man has a *right* of *Voting* as he pleaſes.

If the Gentleman means, That as a Maſter of Arts he is qualified by the *Statutes of the Univerſity* to diſpoſe of his Vote in all Elections, as he ſhall think convenient, I readily grant it. But then, by the Authority we have already mentioned

tioned in the Caſe of Archbiſhop *Abbot*, it will not ſo clearly appear, that when our College ſhall ſet up a Member of their own, much more a Governour: One Man; though a Fellow, has ſo far a right of Voting againſt the Majority, as to do it with Impunity; it being in Fellows a Violation of a Clauſe of their Oath, and certainly a great Offence in a Chaplain, when circumſtanced with that open *Diſreſpect* and *Contempt* Mr. *Proaſt* was pleaſed to ſhew in my Caſe.

Every Counſellor or Advocate has a right of giving his opinion as he pleaſes; But if his advice be againſt the Intereſt of the College, whereof he is Member, the Juſtice of the Cauſe which he eſpouſes will not purge the perjury, nor excuſe the contempt. The liberty or indifferency, which either Party hath in themſelves is, by thoſe relations they have to the College, reſtrained and determined. And as man, howſoever a free born *Engliſhman*, has a right to an exerciſe only of ſuch Arts as are conſiſtant with the by-Laws and Cuſtoms of the Corporation whereof he is a Member, ſo are the publick Priviledges of every Member of the Univerſity contracted by the capacity of the ſame perſon, as more immediately a part of a private Society.

But then,

3*dly*. Let him ſhew, if he can, that he has ſuch *a Right of Voting* as may be called *an Obligation of Voting*. For unleſs he makes that out, he cannot have much to ſay for his Behaviour; he cannot eaſily juſtifie his rude and undecent oppoſition to his own College, and to the Head of it more eſpecially. It is to be feared, that in Arch Biſhop *Abbot*'s time had Mr. *Duppa* pleaded that in his opinion the Candidate of *Wadham* was not a *proper Perſon* for the Office, or that every one has a *Right of Voting* at diſcretion, tho' againſt his own Society; theſe Arguments would not have deferred his puniſhment, or have been lookt upon as a ſufficient excuſe. Neither can I think, that amongſt unprejudiced Men, Mr. *Proaſt*'s

Proaſt's expoſing me as an unfit Man, can juſtifie his appearance againſt me. And to ſhew you that it is not his Opinion, that he is bound in Conſcience to be at the Convocation-Houſe, and diſcharge himſelf of his Vote ſome way or other, without being tedious, I ſhall take the liberty to cite this *Famous* Inſtance.

Upon the death of Sir *Leoline Jenkins*, Mr. *Clark*, a Fellow of *All-Souls*, appeared to be Burgeſs of that Univerſity in his place. The College heartily eſpouſed his Intereſt, and finally, the Univerſity very *unanimouſly* choſe him as a perſon very well qualified for their ſervice. Mr. *Proaſt*, it ſeems, could not bring himſelf to entertain good thoughts of the Gentleman (who would be a great credit to any Society) neither could he be wrought upon to joyn with his own houſe in his Election, but choſe rather to Abſent himſelf. By which proceeding, be pleaſed to obſerve, that Mr *Proaſt*'s practice ſhews that he does not underſtand a Right of voteing to be an Obligation of voteing, that if he thinks a man unfit he thinks himſelf obliged to give his voice againſt him. And beſides, you have a farther proſpect of the Temper of the man, by his having before refuſed to joyn with the Houſe in favour of the greateſt Ornament of it. It appears that he does not think there lies any obligation upon him to be concluded by the ſenſe of the Society, and has no notion of the honour of the College, or any authority he lies under to maintain it. But we come in the third place to examine,

3*dly*. Whether he was turned out by the Warden purely for voting againſt him, without any previous offence, *&c*.

When I loſt the Preferment I appear'd for, I am not conſcious that the *ill uſage* of ſome, and the *unkindneſs of others*, provoked me to the leaſt degree of heat or Paſſion. I do ſolemnly proteſt, that I had not any thought or intention of taking any kind of notice of Mr. *Proaſt*'s Behaviour, till I was ſolicited by ſome of the Officers, and others the moſt conſiderable

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men of the College, to this effect. They complained to me that Mr. *Proaſt* had long been a Burthen to the Society, by his making ſo many and ſo frequent quarrels and diviſions in the Houſe. That in all our private Elections he conſtantly made Parties, to the great diſhonour and diſquiet of the College. That he fix'd ill Characters upon any body at his diſcretion, and upon account of his troubleſome and unquiet humour had frequently deſerved a removal; that I ought not now ſo much to neglect the *peace* and *good* of the Society, as to let this injury, however in appearance private, yet in the effects of it publick, go altogether unpuniſhed. For that ſhould I not upon this affront diſplace him, his *Inſolence*, which before was *inſupportable*, would encreaſe ſo far, as to put the Fellows out of hopes of having any redreſs for the future; for that he had formerly lookt upon himſelf as above *reſtraint*, and *independent of any power whatever*. I was very deſirous to reſiſt the Importunity of the Society, but thoſe whom I conceived to underſtand beſt, and promote moſt the Intereſt of the Houſe, inſiſting upon it, I proteſt ſolemnly, without any inclination to revenge upon my own particular, I pronounced him no Chaplain, giving him fourteen days to remove.

This is the matter of Fact, and by it I preſume it will appear, that I did not expel him *upon my own head*; that I did it at the inſtance of the Fellows, not ſo much for Voting only againſt me, as for his former rude *behaviour to them*. This, I confeſs, that had he not ſo openly oppoſed the College in my caſe, it is not probable that the Fellows would at that time have made their complaint; but this I declare on the other ſide, that had they brought this accuſation at any time againſt him, (ſince I my ſelf have formerly been a Witneſs of the truth of it) I ſhould have thought my ſelf obliged to do them juſtice.

After 14 days were given, it was the expectation of moſt People (how reaſonable a one, I am not a proper Judge) that the

the Gentleman would have made ſome ſort of ſubmiſſion, by which he might have reconciled himſelf to the Society, but inſtead of that, he took another ſort of Courſe, that of diſturbing me with rude Letters; upon which, I publickly declar'd, that the next I received, without opening it, I would that moment ſhorten his ſtay, by ſtrikeing his Name out of the Book, as upon having another Letter left for me at my Lodgings, I ſoon afterwards did.

This is the truth of the whole matter, and I am in hopes it does not deſerve ſo *ſevere a Cenſure* as many have thought fit to paſs upon it, without truly knowing the Caſe, or underſtanding any thing of our Statutes. But I ſhall not wonder, that thoſe Perſons who were for having Mr. *Dodwell* come in *by any means, fair or foul,* take upon them to juſtifie the *inſolence* of ~~thoſe~~ ſome who ſupported his intereſt, without weighing their *Obligations to the contrary.*

Were the turbulent and reſtleſs temper of the Gentleman as well underſtood at *Lambeth,* as it is known *in every part of the Univerſity of* Oxford, I perſwade my ſelf, that inſtead of his having any Countenance from a Viſitor, I ſhould rather receive his Commendation, for removing the diſturber of that *Peace,* that is ſo earneſtly recommended to his Care by our *Beneficent Founder.* I would not, by any means, lay any thing to the Gentleman's Charge, but what is *litterally* true, and therefore have, in ſpeaking of him, purpoſely avoided all diſreſpectful Language; but being call'd upon to vindicate my ſelf, I muſt ſay that he is abſolutely Unfit for a College. I am not ſingular in this Opinion. Dr. *Barlow the Biſhop of* Lincoln *having removed him from* Queens-College *for the ſame reaſon.*

3. As to the third Point, which is a cavil againſt Mr. *Finches* Title to the Wardenſhip, it might, with ſubmiſſion, be prov'd to be falſe, if it was not a more eaſie, and more proper task to prove it immaterial.

1. For if it was granted, that he was only Warden *de facto*, and not *de jure*; yet since he was then admitted, and own'd as such by the whole College, and more especially by the Visitor himself, and by Mr. *Proast*, in the superscription of his Letter, *&c.* and had then, if not a lawful, yet an uncontested Title: It must follow, that he was at least in *Possessione Jurisdictionis*, and that all Acts of discipline for the Government of the College were Valid, and Authoritative.

2. If the Consequence should be allow'd, that all the Acts of a Warden, who had no good Title, were void; then all the Leases made in his Wardenship would be invalidated, all Fines must *de novo* be paid, and the common security of those that transacted with a College would be overthrown: For it is impossible to suppose, that a Warden *de facto* should be admitted to have Power of granting Leases, and not of exercising Acts of Discipline, and Jurisdiction; since the one Power is of more immediate and pressing necessity, for support of the College, than the other; and consequently the one is often lodg'd in Inferiour Officers, the other is reserv'd to the Warden alone.

As to the Title it self, how far the King's Mandat *in Re licitâ* can dispence with the Ceremonies of Election enjoyn'd by the local Statutes of a College, The Warden takes not upon him to determine; he is inform'd however, that this Point was admitted, and judicially settled in *Westminster-Hall*, in the beginning of the Reign of *Charles* the Second. It is improper for him to State the bounds and extent of the Dispencing Power; and no sign of Modesty in Mr. *Proast*, without any great pretensions to Law, at one blow to disannul and overthrow it. But this the Warden knows, that however unwarrantable the exercise of his dispensing power may be, the use of a Mandat could not be so prejudicial to the Rights of the College, nor so derogatory to the power of a Visitor; as Mr *Proast*'s Appeal from the Dean and Chapter

Chapter of *Canterbury* (who *ſede vacante* were the proper Viſitors) to the Privy Council, (who had no cogniſance of the cauſe at all.

As to the Mandat it ſelf, it ſhould be known, that it was obtained by the Warden at the requeſt of the beſt Members of the Society: That it was by them then eſteemed a ſecurity to the College; and was uſed in other Societies at that time, as the beſt method to hinder the incroachments of men of ill Principles. That his Government of the College in the late Reigns was ſuch as was ſuitable to this deſign, and was ſo far from being unacceptable to the beſt part of the Society, that Mr. *Proaſt* will gain very few or none of the Members of that College, that will concur in theſe unwarrantable exceptions to the Wardens title.

Mr. *Proaſt* hath put himſelf under a double capacity of an Informer, and an Appellant. As to his Information, it is humbly preſumed, that if any weight at all be laid on it, the *Moſt Reverend the Viſitor* will give the Warden time to ſhew the weakneſs of thoſe Suggeſtions; before his *Grace* gives himſelf the trouble of any proceedings upon it. As to the Appeal, it is hoped that upon the reaſons abovementioned, it will receive no other favour from *our Moſt Reverend Viſitor*, than it hath hitherto found from the *Dean and Chapter of* Canterbury, from the *Privy Council*, and in *Weſtminſter-Hall*; eſpecially ſince his caſe hath been ſo often conſidered; and ſince after ſo long a circuit of proceſs, after ſo great and frequent troubles, and expences; it will probably ſeem reaſonable to his Grace in his Wiſdom to excuſe the Warden, and Fellows of that Society, from any new *charge*, and *trouble* upon this occaſion.

L. W. Finch.

FINIS.